

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE LOIS MARIE WEKENMANN,

Debtor, Case No. 07-65551-tjt
Chapter 7 Bankruptcy

Adversary Proceeding Case No. 08-04355
Honorable Thomas J. Tucker

JOCHIM WEKENMANN,

Plaintiff-Appellee,

v. Case No. 08-12172
Honorable Patrick J. Duggan

LOIS MARIE WEKENMANN,

Defendant-Appellant.

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**OPINION AND ORDER GRANTING PLAINTIFF-APPELLEE'S MOTION TO
DENY OR DISMISS APPEAL FOR MOOTNESS**

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on November 20, 2008.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

This is an appeal from the bankruptcy court filed by Defendant-Appellant Lois Marie Wekenmann (hereafter “Appellant”). In her appeal, Appellant challenges the May 12, 2008 Scheduling Order that Bankruptcy Court Judge Thomas J. Tucker entered in an adversary proceeding filed by Plaintiff-Appellee Jochim Wekenmann (hereafter “Appellee”). Presently before the Court is Appellee’s Motion to Deny or Dismiss Appeal

for Mootness, filed September 18, 2008.

According to Appellee, he served Appellant with a copy of his motion via regular first-class mail. This Court sent a notice to the parties on September 18, 2008, indicating that Appellee's motion to dismiss had been filed and reminding them of the provisions of Local Rule 7.1, specifically subsection (d) which provides that “[a] response to a dispositive motion must be filed within 21 days after service of the motion. (Doc. 7.) The Court also sent a notice to the parties on October 15, 2008, informing them that it is dispensing with oral argument with respect to Appellee's motion to dismiss and that a written opinion would be issued. (Doc. 8.) As of this date, Appellant has not responded to the motion.

In his motion to dismiss, Appellee informs the Court that the adversary proceeding in the bankruptcy court was not stayed pending this appeal and that, on September 8, 2008, Judge Tucker granted Appellee's motion for summary judgment in those proceedings. As a result, Appellee's adversary proceeding in which the challenged scheduling order was entered, now has been concluded. Appellee therefore contends that the present appeal is moot and must be dismissed. This Court agrees.

Accordingly,

IT IS ORDERED, that Appellee's motion to deny or dismiss appeal for mootness is **GRANTED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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Honorable Thomas J. Tucker